



10-15-03

DAE

Attorney Docket No.: AUS-1719-AV

#9/dpm
1-8-04
Ret re
Aband.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application:

Gadberry, et al.

Serial No.: 09/675,851

Filed: September 28, 2000

For: SURGICAL INSTRUMENT WITH
IMPROVED HANDLE ASSEMBLY

Examiner: Hale, Gloria

Art Unit: 3765

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TECHNOLOGY CENTER #3700

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Date of Deposit: October 14, 2003

I hereby certify that the following documents as identified below are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and are addressed to the Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450.

1. Petition to Revive Abandoned Application with Exhibit A;
2. Check No. 097916 in the amount of \$ 55.00; and
3. Return-receipt postcard.

Each of the above-identified documents is enclosed herewith.

Respectfully submitted,

Barbara Johnson

Barbara Johnson
Applied Medical Resources Corporation

22872 Avenida Empresa
Rancho Santa Margarita, California 92688
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OFFICE OF PETITIONS



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application:) Docket No. AUS-1719-AV
Gadberry, et al.)
Serial No.: 09/675,851) Examiner: Hale, Gloria
Filed: September 28, 2000) Art Unit: 3765
For: SURGICAL INSTRUMENT WITH)
IMPROVED HANDLE ASSEMBLY)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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TECHNOLOGY CENTER R3700

PETITION TO REVIVE ABANDONED APPLICATION

Dear Sir:

Applicant of the above-captioned application hereby petitions the Commissioner to withdraw the holding of abandonment which was effective on May 27, 2003. A Notice of Abandonment was mailed September 23, 2003 and indicated that Applicant had failed to timely file a proper reply to the Office letter mailed February 27, 2003.

The reason for Applicant's failure to respond to the Office Action is based on the Applicant's non-receipt of the Office Action. MPEP section 711.03 (c) II provides guidelines for this Petition to Withdraw Holding of Abandonment based on failure to receive Office Action.

MPEP section 711.03(c) II indicates that the Office has modified the showing required to establish non-receipt of an Office Action. "A copy of the docket record where the non-received Office communication would have been entered, had it been received and docketed, must be attached to and referenced in practitioner's statement." An example is given where a docket report based on date of entry is deemed to be a sufficient showing.

Applicant's docket system does not provide a report based on the date a docket item is entered. However, the docket can provide a report showing all items that are due within a certain date range. A copy of this report is attached as Exhibit A for a date range from May 1, 2003 through June 30, 2003.

Page 2 of Exhibit A shows an item docketed for May 25, 2003, with respect to a Case No. 2207-P. Immediately following this docket item is a further item docketed for May 28, 2003 and relating to Case No. 2321-P. If the Office Action in the above-captioned application had been received, it would have been docketed with a due date of **May 27, 2003** and would appear between these two items in the attached report of Exhibit A.

09/17/2003 AUSNDAF1 00000019 09675851

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OCT 17 2003

OFFICE OF PETITIONS

Serial No.: 09/675,851
Docket No.: AUS-1719-AV

The enclosed report should provide a showing even more acceptable than that suggested in the example set forth in MPEP section 711.3(c) II. A report based on entry date of a docketed item would require focus on a broad three-month period as contemplated by the example. However, a report based on due date requires a much smaller focus, around a specific due date. This difference in breath of focus is based on the fact that the item entry could have been entered at any time during the three-month period but regardless of its entry date, the due date would always have been the same. Thus, the enclosed due date report should provide an even stronger showing than that suggested in the example.

Accordingly, it is requested that the enclosed report (Exhibit A) be accepted as a showing sufficient to establish non-receipt of the Office communication mailed on February 27, 2003.

The undersigned further attests that the Office communication was not received by himself, his office, or the applicant. A search of the file jacket and docket records further indicates that the Office communication was never received.

Based on the foregoing proofs, it is requested that this petition be granted, that the holding of abandonment be withdrawn, and that the Office Action be re-mailed to the Applicant. With this petition, Applicant is enclosing the fee required by 37 CFR 1.17(l) based on an unavoidably abandoned application.

Respectfully submitted,



Richard L. Myers
Registration No. 26,490

Date: October 13, 2003
22872 Avenida Empresa
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Facsimile (949) 713-8206

DUE DATE SUMMARY 05-01-2003 Thru 06-30-2003

ATTORNEY	FILE NO./ CLIENT	ACTION REQUIRED	DUE DATE
RLM	2834-AB APPLIED MEDICAL RESO Title: SURGICAL ACCESS SYSTEM & METHOD US Ser. No:10/379,461	Status Check (Application) Disclosure Statement Reminder	05-03-2003
RLM	2834-A APPLIED MEDICAL RESO Title: SURGICAL ACCESS APPARATUS & METH US Ser. No:10/346,846	Response To Office Action Due RESP DUE/NO FEE	05-04-2003
RLM	1630-AUS APPLIED VASCULAR Title: BALLOON CATHETER A&M US Pat. No:6,626,861	Response To Office Action Due 6 Month Follow-up Notice	05-05-2003
RLM	2464-RA APPLIED MEDICAL RESO Title: ENDO BALLOON FOR OBESITY US Ser. No:60/379,540	Status Check (Application) Last Date To File Non-Provis. App!	05-09-2003
RLM	2464-RA APPLIED MEDICAL RESO Title: ENDO BALLOON FOR OBESITY US Ser. No:60/379,540	Other Action Due FOREIGN FILING ABSOL	05-09-2003
RLM	2334-P APPLIED MEDICAL RESO Title: HIGH-FLOW LOW-PRESS IRRGATN SYS PCT Ser. No:US02/27923	PCT Filed-Status Check Enter Nat. Phase-Non Ch. II Countr	05-12-2003
RLM	1883-P APPLIED MEDICAL RESO Title: MULTI-SEAL TROCAR SYSTEM PCT Ser. No:US01/45567	PCT Filed-Status Check Enter Nat. Offices By 07-13-2003	05-13-2003
RLM	2833-ATMI APPLIED MEDICAL RESO Title: GELACCESS US Ser. No:76/467,305	Status Check(TM Application)	05-13-2003
RLM	2207-P APPLIED MEDICAL RESO Title: SURG ACCESS DEV W/FLOAT GEL SEAL PCT Ser. No:US02/36649	PCT Filed-Status Check	05-13-2003
RLM	2777-A APPLIED MEDICAL RESO Title: KINK RESISTENT ACCESS SHEATH US Ser. No:10/298,116	Status Check (Application) Foreign Filing Reminder	05-15-2003
RLM	2164-RAB APPLIED MEDICAL Title:	Status Check (Application) Last Date To File Non-Provis. App!	05-16-2003
RLM	1592-A APPLIED UROLOGY Title: KINETIC STENT	Response To Final Action Due 4 Month Check-Allowed or Appealed?	05-16-2003
RLM	1592-A APPLIED UROLOGY Title: KINETIC STENT	Response To Final Action Due RESP DUE W/1HTH FEE	05-16-2003

Exhibit A

DUE DATE SUMMARY CONTINUED

ATTORNEY	FILE NO./ CLIENT	ACTION REQUIRED	DUE DATE
RLM	1249-EPCB APPLIED LAPAROSCOPY Title: TROCAR VALVE ASSEMBLY	Annuity/Tax Due EP Ser. No:95920496.7	05-17-2003
RLM	2849-ATHI APPLIED MEDICAL RESO Title: SCOUT	Status Check(TM Application) Foreign Filing Follow-up	05-18-2003
RLM	2849-ATHI APPLIED MEDICAL RESO Title: SCOUT	Status Check(TM Application) Waiting For Filing Receipt	05-18-2003
RLM	2848-ATHI APPLIED MEDICAL RESO Title: UROWIRE	Status Check(TM Application) Foreign Filing Follow-up US Ser. No:76/478,746	05-18-2003
RLM	2848-ATHI APPLIED MEDICAL RESO Title: UROWIRE	Status Check(TM Application) Waiting For Filing Receipt US Ser. No:76/478,746	05-18-2003
RLM	1387-CACA APPLIED LAPAROSCOPY Title: MULTIPORT TROCAR	Annuity/Tax Due ANNUITY FEE DUE CAN Ser. No:2,195,017	05-19-2003
RLM	1650-A APPLIED VASCULAR Title: SURGICAL CLAMP WITH IMPROV TRACT US	RESP DUE W/3MTH EOT Pat. No:6,579,304	05-19-2003
RLM	2879-ATHI APPLIED MEDICAL RESO Title: UROBASKET	Status Check(TM Application) Ser. No:76/498,530	05-19-2003
RLM	2018-AUS APPLIED MEDICAL RESO Title: SURGICAL ACCESS A&M	Status Check (Application) Disclosure Statement Reminder US Ser. No:10/381,220	05-20-2003
RLM	2164-P APPLIED MEDICAL RESO Title: BLADELESS OBTURATOR	PCT Filed-Status Check DESIGNATED OFFICE REQ'S DONE???? Ser. No:US02/06759	05-24-2003
RLM	2207-P APPLIED MEDICAL RESO Title: SURG ACCESS DEV W/FLOAT GEL SEAL	PCT Filed-Status Check Priority Doc. Rec'd By Int. Bur.? PCT Ser. No:US02/36649	05-24-2003
RLM	2321-P APPLIED MEDICAL RESO Title: ELECTROSURG W/IMPROV CONTROL A&M	PCT Filed-Status Check Priority Doc. Rec'd By Int. Bur.? PCT Ser. No:US02/34218	05-25-2003
RLM	2067-AUS APPLIED MEDICAL RESO Title: MULTIPLE CLIP APPLIER A&M	Status Check (Application) Disclosure Statement Reminder US Ser. No:10/381,970	05-28-2003
RLM	CA-2026 APPLIED MEDICAL RESO Title:	Status Check (Application) Disclosure Statement Reminder	05-31-2003

Exhibit A

DUE DATE SUMMARY CONTIN

ATTORNEY	FILE NO./ CLIENT	ACTION REQUIRED	DUE DATE
RLM	2396-A APPLIED MEDICAL RESO Title: UNIVERSAL ACCESS SEAL	Status Check (Application) Foreign Filing Reminder US Ser. No:10/308,288	06-02-2003
RLM	2283-ATHI APPLIED MEDICAL RESO Title: FORTE	File Proof Of Use Or Extension Required 1st Six Month Extension Reg. No:2,751,011	06-03-2003
RLM	1631-AUS APPLIED VASCULAR Title: SURGI.INSTRU.W/IMPR.TRACTION	Response To Office Action Due RESPONSE W/O FEE US Ser. No:09/355679	06-03-2003
RLM	1592-A APPLIED UROLOGY Title: KINETIC STENT	Issue Fee Due(Formal Dwgs.Due?) ISSUE FEE DUE	06-04-2003
RLM	2834-A APPLIED MEDICAL RESO Title: SURGICAL ACCESS APPARATUS & METH US	Response To Office Action Due RESP DUE W/1 MO FEE US Ser. No:10/346,846	06-04-2003
RLM	1791-EP APPLIED MEDICAL RESO Title: LOW PROFILE SURGICAL CLIP	Annuity/Tax Due 4TH YR ANNUITY DUE EP Ser. No:00936509.9	06-05-2003
RLM	1791-CN APPLIED MEDICAL RESO Title: LOW PROFILE SURGICAL CLIP	Other Action Due 2ND MAINTENANCE FEE DUE CN Ser. No:2,373,388	06-05-2003
RLM	2826-RA APPLIED MEDICAL RESO Title: PERCUTANEOUS PLUG	Status Check (Application) Foreign Filing Reminder US Ser. No:60/431,638	06-05-2003
RLM	2852-ATHI APPLIED MEDICAL RESO Title: SEPARATOR	Status Check(TM Application) Foreign Filing Follow-up US Ser. No:76/481,396	06-09-2003
RLM	2852-ATHI APPLIED MEDICAL RESO Title: SEPARATOR	Status Check(TM Application) Waiting For Filing Receipt US Ser. No:76/481,396	06-09-2003
RLM	2153-THCN APPLIED MEDICAL RESO Title: AMR LOGO DESIGN	Instructions To Associate Due RESP TO OA ABSOLUTE!! CN Ser. No:1112192	06-10-2003
RLM	2878-ATHI APPLIED MEDICAL RESO Title: UROGRASPER	Status Check(TM Application) Foreign Filing Reminder US Ser. No:76/496,576	06-11-2003
RLM	2376-AUS APPLIED MEDICAL RESO Title: SEALED SURGICAL ACCESS DEVICE	Status Check (Application) Disclosure Statement Reminder	06-11-2003
RLM	1650-ADV APPLIED MEDICAL RESO Title: SURGICAL CLAMP W/IMPROVED TRACTN US	Status Check (Application) Disclosure Statement Reminder US Ser. No:10/412,016	06-11-2003

Exhibit A

DUE DATE SUMMARY CONTIN

ATTORNEY	FILE NO./ CLIENT	ACTION REQUIRED	DUE DATE
RLM	2355-P APPLIED MEDICAL RESO Title: HIGH FLOW STONE BASKET SYSTEM	PCT Filed-Status Check DESIGNATED OFFICE REQ'S DONE???? PCT Ser. No:US02/18975	06-12-2003
RLM	2334-P APPLIED MEDICAL RESO Title: HIGH-FLOW LOW-PRESS IRRGATN SYS	PCT Filed-Status Check DESIGNATED OFFICE REQ'S DONE???? PCT Ser. No:US02/27923	06-12-2003
RLM	1883-P APPLIED MEDICAL RESO Title: MULTI-SEAL TROCAR SYSTEM	PCT Filed-Status Check Enter Nat. Phase-Non Ch. II Countr PCT Ser. No:US01/45567	06-13-2003
RLM	1883-P APPLIED MEDICAL RESO Title: MULTI-SEAL TROCAR SYSTEM	PCT Filed-Status Check CHAPTER II DUE ABSOLUTE PCT Ser. No:US01/45567	06-13-2003
RLM	1865-RACA APPLIED MEDICAL RESO Title:	Status Check (Application) Foreign Filing Follow-up	06-16-2003
RLM	1865-RACA APPLIED MEDICAL RESO Title:	Status Check (Application) Non-Provis. Applic. To Be Filed???	06-16-2003
RLM	1592-A APPLIED UROLOGY Title: KINETIC STENT	Response To Final Action Due RESP DUE W/2MTH EDT	06-16-2003
RLM	1790-CIP APPLIED MEDICAL RESO Title: URETERAL ACCESS SHEATH	Status Check (Application) Foreign Filing Follow-up US Ser. No:10/198,030	06-17-2003
RLM	2395-RA APPLIED MEDICAL RESO Title: STAPLE-CLIP AND APPLIER	Status Check (Application) Foreign Filing Reminder US Ser. No:60/434,344	06-17-2003
RLM	2834-A APPLIED MEDICAL RESO Title: SURGICAL ACCESS APPARATUS & METH US	Status Check (Application) Waiting For Filing Receipt Ser. No:10/346,846	06-17-2003
RLM	2849-ATHI APPLIED MEDICAL RESO Title: SCOUT	Status Check(TM Application)	06-18-2003
RLM	2847-ATHI APPLIED MEDICAL RESO Title: OPHIDIAN	Status Check(TM Application) US Ser. No:76/477,610	06-18-2003
RLM	2848-ATHI APPLIED MEDICAL RESO Title: UROWIRE	Status Check(TM Application) US Ser. No:76/478,746	06-18-2003
RLM	2879-ATHI APPLIED MEDICAL RESO Title: UROBASKET	Status Check(TM Application) Foreign Filing Reminder Ser. No:76/498,530	06-19-2003

Exhibit A

DUE DATE SUMMARY CONTIN

ATTORNEY	FILE NO./ CLIENT	ACTION REQUIRED	DUE DATE
RLM	2030-P APPLIED MEDICAL RESO Title: STENT DELIVERY SYS & METHOD	PCT Filed-Status Check NATL PHASE DUE PCT Ser. No:US01/50265	06-22-2003
RLM	2553-RA APPLIED MEDICAL RESO Title: CLIP APPLIER CARTRIDGE W/RATCHET US	Status Check (Application) Foreign Filing Follow-up Ser. No:60/398,189	06-23-2003
RLM	2553-RA APPLIED MEDICAL RESO Title: CLIP APPLIER CARTRIDGE W/RATCHET US	Status Check (Application) Non-Provis. Applic. To Be Filed??? Ser. No:60/398,189	06-23-2003
RLM	2207-P APPLIED MEDICAL RESO Title: SURG ACCESS DEV W/FLOAT GEL SEAL	PCT Filed-Status Check Last Date To Withdraw Application PCT Ser. No:US02/36649	06-24-2003
RLM	2207-P APPLIED MEDICAL RESO Title: SURG ACCESS DEV W/FLOAT GEL SEAL	PCT Filed-Status Check File Chapter 2 Demand By 08-24-200 PCT Ser. No:US02/36649	06-24-2003
RLM	2428-P APPLIED MEDICAL RESO Title: SURGICAL DIGITIZING A&M	PCT Filed-Status Check Record Copy Rec'd By Int. Bur.? PCT Ser. No:US03/04007	06-24-2003
RLM	2321-P APPLIED MEDICAL RESO Title: ELECTROSURG W/IMPROV CONTROL A&H	PCT Filed-Status Check Last Date To Withdraw Application PCT Ser. No:US02/34218	06-25-2003
RLM	1387-EPCA APPLIED LAPAROSCOPY Title: MULTIPORT TROCAR	Instructions To Associate Due RESP TO FA ABSOLUTE!!! EP Ser. No:95920566.7	06-28-2003
RLM	2067-AUS APPLIED MEDICAL RESO Title: MULTIPLE CLIP APPLIER A&M	Status Check (Application) US Ser. No:10/381,970	06-28-2003
RLM	2861-ATHI APPLIED MEDICAL RESO Title: SEQUENTIAL HELIX	Status Check(TM Application) Foreign Filing Follow-up US Ser. No:76/487,118	06-29-2003
RLM	2861-ATHI APPLIED MEDICAL RESO Title: SEQUENTIAL HELIX	Status Check(TM Application) Waiting For Filing Receipt US Ser. No:76/487,118	06-29-2003
RLM	2224-P APPLIED MEDICAL RESO Title: VASCULAR EXCLUSION CATHETER	PCT Filed-Status Check DESIGNATED OFFICE REQ'S DONE????	06-30-2003

REPORT COMPLETED ON 10-07-2003 AT 11:20:57

Exhibit A